

JAN 11 2021

Clerk, U.S. Courts
District of Montana
Missoula Division

UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
MISSOULA DIVISION

STEPHEN P. KELLY,
GENERAL DELIVERY,
KALISPELL, MT 59901,
Plaintiff,

vs.

IMAGINEIF LIBRARY ENTITY, a
COUNTY LIBRARY FACILITY, CONNIE
BEHE, in her official capacity,
FLATHEAD COUNTY, a LOCAL MONTANA
GOVERNANCE, and JANE DOE/A.K.A.
KELLY, in her official capacity,
247 1st Ave., E. Kalispell, MT 59901,
Defendant(s).

(1)

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Comes now the Plaintiff in
the above styled action and does
show cause for complaint as
follows:

(1) This is an action sustained
by, STEPHEN P. KELLY, hereinafter,
Plaintiff, KELLY, and SUES the
defendant's jointly, the
IMAGINEIF LIBRARY ENTITY, a
county library facility, CONNIE
BEHE, in her official capacity,
FLATHEAD COUNTY, a local
Montana governance, and JANE
DOE / A.K.A. / KELLY, in her official
capacity, alleging:

(a) Diliberate indifference
to an immediate medical
need, (b) discrimination upon
the medical aspects, asthma,
and COPD, (c) unconstitutional
enforcement of inner-office
mask mandate, and (d) viol-
-ation of civil rights.

(2)

PARTIES

(2) Plaintiff, STEPHEN P. KELLY, is a current Library patron of the official Library entity, defendant, IMAGINEIF Library facility, located within the confines of Flathead county Montana.

(3) Primary defendant, IMAGINEIF Library entity, exists as a county owned Library facility, governed per Flathead county Montana.

(4) Individual defendant, CONNIE BEHE, acts in her official capacity as primary Library director, and acts under the governance of Flathead county Montana.

(5) Individual defendant, JANE DOE/A.K.A/KELLY, acts in her official capacity as an inner-office personnel of the official IMAGINEIF Library entity, and is employed

under the authority of Flathead county as such.

(6) Governmental defendant, Flathead county exists as a Local Montana government, and employ's joint defendant's, IMAGINEIT LIBRARY ENTITY, CONNIE BEHE, as Library director, and JANE DOE/A.K.A. KELLY, as an inner-office Library personnel, all acting in their official capacities.

NATURE OF THE CASE

(7) At issue in fact exists a widespread unconstitutional mask mandate created solely at the hands of defendant's Library director, CONNIE BEHE, subject to arbitrary enforcement and improperly enacted by the county attorney, and Library board of directors, without the authority of the elected county commission.

(8) THIS concise case is predicated upon 42 U.S.C. § 1983.

(9) Pursuant to 42 U.S.C. § 1983, county attorney's, prosecutor's, and judges, in fact obtain absolute immunity to suit under 1983,

(10) Person's such as defendant's, BEHE, DOE/A.K.A. KELLY, and the governed IMAGINE IF LIBRARY ENTITY, all are libel under 1983, in federal court.

(11) Further, at issue in fact exists a clear constitutional protection, where a city, county, and or any local government, cannot force a citizen to surrender one constitutional right in which to assert another!

RELATED CASES

(12) In Florida, Plaintiff party, Joseph Bracciale in fact sued,

Litigated upon the city of Key West upon the same exact aspects as KELLY here! (See copy attached).

(13) In the event that a (mask mandate), is in fact unconstitutional in Florida, then despite the concise state at which such case rose, it is also unconstitutional within the confines of any state as such!

JURISDICTION AND VENUE

(14) This court obtains jurisdiction over this case pursuant to 42 U.S.C. § 1983.

(15) Diliberate indifference further rises as federal court jurisdiction.

(16) Plaintiff, STEPHEN P. KELLY, is a resident of the state of Montana, and has resided in

Montana at all times material to this action.

(17) Entity defendant, IMAGINETF LIBRARY facility, exists as a governmental entity, acting under the governance of Flathead County Montana, and its principal place of business exists in the State of Montana, and has existed in Montana at all times material to this action.

(18) Individual defendant, CONNIE BEHE, resides within the State of Montana, and has resided in Montana at all times material to this action.

(19) Individual defendant, SANE DOE/A.K.A./KELLY, resides in the State of Montana, and has resided in Montana at all times material to this action.

(20) Governmental defendant, FLATHEAD COUNTY, exists as a county government, under the

paramount authority of the
State of Montana.

(21) Venue is proper in the
district of Montana, because
each event giving rise to
this action accrued in the
district of Montana. 28 U.S.C. § 1391.

STATEMENT OF FACTS

(22) commencing on October,
14th, 2020, and further occurring,
upon the concise dates of, Oct, 15th,
Oct, 16th, Oct, 20th, Oct, 22nd, Oct,
26th, and 28th, 2020, and, further
rises on November, 4th, 2020, Nov, 5th,
Nov, 8th, Nov, 16th, Nov, 12th, and
each and every day, and concise
dates all of the way through the
entire month of November, 2020,
until the conclusion of November,
on the concise date of November,
29th, 2020, the most discriminatory
event's rose upon the medical
aspects, where Plaintiff, KELLY
was in fact forced to place upon
a mask, severely affecting

his, asthma, and (b) COPD, violated at the hands of defendant's, BEHE, and JANE DOE / A.K.A. / KELLY!

(23) Pursuant to these patterned and continuous acts per defendant's, BEHE, and JOE / A.K.A. / KELLY, a clear deliberate indifference rises here!

(24) Plaintiff, KELLY's breathing capacity is severely affected per the Library, and its staff's inner-office (mask policy)!!

(25) Joint defendant's, BEHE and JOE / A.K.A. / KELLY, including each and every Librarian within the confines of defendant's Library facility, at the sole direction of Library director, CONNIE BEHE, obtains a further unconstitutional policy where any patron whom which does not desire to place a mask upon their face, is forced to remain outside the confines

of the Library facility, and utilize an issued Laptop computer device outside and external to the usual and standard Library facility, in extreme cold weather conditions, yet under 1983, a city, county, or local government is prohibited from forcing a citizen to surrender one constitutional right in which to assert another!

(26) If Joseph Bracciale can prevail in Florida as to a mask policy existing as unconstitutional, then despite the governed state at which the case rose, Plaintiff, Kelly can in fact equally prevail upon the same exact merits.

(27) Flathead county is in fact named as a joint defendant, within this concise civil complaint, where the county attorney, Travis R. Ahner, condones and ratifies defendant

BEHE'S, inner-Library policy, custom, and practice, and refuses with clear intent to remove the unconstitutional mask mandate created solely per BEHE, as Library director. However, the county attorney cannot be sued in his official capacity under 1983, in federal court, where 1983, provides that judges and prosecutor's, such as county attorney's, obtain absolute immunity to suit under 1983.

(28) The Library board of directors, also adopts and condones defendant BEHE'S, inner-office mask policy, as the IMAGINE IT LIBRARY entity, is in fact properly named as joint defendant's as such.

(29) Plaintiff, KELLY'S oxygen level has in fact become excessively low at the isolated cause of defendant's mask policy, enforced at the hands of defendant's, BEHE, and

her immediate assistant,
defendant, DOE/A.K.A/KELLY.

(30) Plaintiff, KELLY in fact obtains suitable legal standing in this concise case, and obtains a plausible, and cognizable claim, where upon all dates quoted above, defendant's, BEHE, and DOE, forced Plaintiff, KELLY to place a non-ventilated mask upon his face covering the entire face area of KELLY!

CLAIM ONE

(31) A county entities mask policy, custom, and practice exists as most unconstitutional, based upon a clear deliberate indifference, to an immediate medical need, suffering asthma and COPD.

CLAIM TWO

(32) Joint Library defendants, obtain a severe unconstitutional policy, custom, and practice, where a patron is forced to await outside the confines of the official library facility, upon the patrons refusal to place upon a mask, however, supported under 42 U.S.C. § 1983, a citizen cannot be forced by the government, local/country, state, or federal, in which to surrender one constitutional right in which to assert another.

INJURY

(33) Plaintiff, suffers continuous injury and damages caused and brought upon per joint defendant's, where to date, current, and even prior, Plaintiff's oxygen level is

excessively Low, and each and every time at which defendant's force Plaintiff, to place upon a mask merely in which to utilize the public library facility, his breathing capacity becomes Low!

WHEREFORE, upon the premises considered, it is respectfully requested upon this honorable court the entry of a judgment as follows:

(a) enter declaratory judgment finding that joint defendant's, inner-office mask custom, practice and policy, does in fact rise as unconstitutional.

(b) enjoin joint defendant's, from continuing to enforce the unconstitutional mask mandate.

(c) non-jury demand.

(d) magistrate judge trial requested.

I declare under the penalty of perjury the foregoing to be true and correct.

Signed this 4th day of January, 2021.

Stephen P. Keel
(SIGNATURE OF PLAINTIFF)